

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

JULIO DIAZ

(b) County of Residence of First Listed Plaintiff Philadelphia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pierre LaTour, Esquire. 1515 Market Street, Ste. 1210, Philadelphia, PA  
19102 (215) 732-0460

**DEFENDANTS**

CITY OF PHILADELPHIA

County of Residence of First Listed Defendant Philadelphia  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Section 1983

Brief description of cause:  
Section 1983

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

1/8/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 8301 State Road, Philadelphia, PA 19136

Address of Defendant: 1515 Arch Street, 14th Floor, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: \_\_\_\_\_

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, \_\_\_\_\_, counsel of record do hereby certify:
- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 1/8/2018

Attorney-at-Law

82429

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/8/2018

Attorney-at-Law

82429

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

JULIO DIAZ	:	CIVIL ACTION
	:	
v.	:	
	:	
CITY OF PHILADELPHIA and	:	
CORIZON HEALTH, INC.	:	NO.
T/A PRISON HEALTH SERVICES, INC.	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( x )

<u>1/8/2018</u>	<u>Pierre LaTour</u>	<u>Julio Diaz</u>
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for</b>
<u>(215) 732-0460</u>	<u>(215) 563-7587</u>	<u>pierre@phillybestdefense.com</u>
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>



## COMPLAINT

1. This is a civil action seeking damages against Defendants for committing acts, under color of law, which deprived Plaintiff of rights secured by the Eighth and Fourteenth Amendments to the Constitution and the laws of the United States and the Commonwealth of Pennsylvania; for conspiring for the purpose of impeding and hindering the due course of justice, with intent to harm Plaintiff; and for refusing or neglecting to prevent such deprivations and denials to Plaintiff.
2. The Court has jurisdiction of this action under 42 U.S.C. § 1983, 1988 and 28 U.S.C. §§ 1331, 1343 and 1367.
3. Plaintiff, Julio Diaz, is a citizen and resident of Philadelphia, Pennsylvania and the United States of America.
4. Defendant, City of Philadelphia, is a municipality and agent of the Commonwealth of Pennsylvania. Defendant City of Philadelphia manages and oversees the Philadelphia Prison System.
5. Defendant, Bruce Herdman, is the Chief of Medical Operations of the Philadelphia Prison System.
6. Defendants, John Does 1-2, are employed by the Philadelphia Prison System as correction officers and/or social workers.
7. Defendant, Corizon Health, Inc., t/a Prison Health Services, Inc., is a corporation contracted by the City of Philadelphia to provide medical services to inmates housed in the Philadelphia Prison System.

8. Defendants, John Does 3-4, are employed by Defendant, Prison Health Services, Inc., as nurses, doctors and/or medical providers.
9. Plaintiff sues each and all Defendants in their individual and official capacities.
10. At all times material to this Complaint, Defendants, Herdman and John Does, acted under color of law and under the color of the statutes, customs, ordinances and usage of the State of Pennsylvania, City of Philadelphia, Philadelphia Police Department and the Philadelphia Prison System.
11. At all times relevant, Defendants acted jointly and in concert with each other. Each individual Defendant had the duty and opportunity to protect the Plaintiff from unlawful actions of the other Defendants but each Defendant failed and refused to perform such duty, thereby proximately causing Plaintiff's injury.
12. At all times relevant, Defendant Herdman, corrections officers and John Does, were employed in their duties as corrections employees for the City of Philadelphia.
13. At all times relevant hereto, Defendant City of Philadelphia was acting through its agents, servants and employees, who were acting within the scope of their authority, course of employment and under the direct control of the Defendant City.
14. In January of 2016, Plaintiff was housed in the Philadelphia Prison System at PICC.
15. On or about January 12, 2016, Plaintiff complained of pain, swelling and inflammation in his right leg to Defendant John Doe #1 and requested that he be taken to the infirmary.
16. Plaintiff was seen in the infirmary on January 12, 2016 and examined by Defendant John Doe #3, a nurse at the infirmary.
17. John Doe #3 diagnosed Plaintiff with an abscess in his right leg, proscribed him Motrin for the pain, and returned him to his cell.

18. Between January 12, 2016 and January 17, 2016, Plaintiff continued to experience severe pain and swelling in his right leg.
19. Between January 12, 2016 and January 17, 2016, Plaintiff reported symptoms of pain in his lower right leg to corrections officers and medical personnel employed by Defendants, City of Philadelphia and Corizon.
20. Despite multiple complaints, which later included symptoms of severe pain, redness, and swelling, Defendants City, Corizon, and John Does failed to take any action to treat Plaintiff's symptoms.
21. On or about January 17, 2016, Plaintiff's pain became so severe that he was unable to walk. At this time Defendants finally sent him to the infirmary.
22. While at the infirmary on January 17, 2016, Plaintiff was not examined by a physician. Plaintiff was informed a physician would examine him the following day, January 18, 2016.
23. Plaintiff was not examined by a physician until January 19, 2016.
24. On January 19, 2016, Plaintiff was referred to the emergency department of Aria Torresdale Hospital with complaints of severe pain in his right leg.
25. At Aria Torresdale Hospital, Plaintiff was diagnosed with right lower extremity abscesses, cellulitis, swelling and erythema
26. The doctors at Aria Frankford performed an emergency incision and drainage of Plaintiff's right lower leg.
27. Plaintiff was treated with antibiotic medicines and pain medication.
28. On January 22, 2016, Plaintiff was discharged and instructed to take medications

29. Since January 2016, Plaintiff has had to participate in ongoing physical therapy for his leg as a result of the maltreatment.
30. Since January 2016, Plaintiff has had to take different medications to treat the symptoms resulting and stemming from his cellulitis and abscesses.
31. Plaintiff continues to suffer post surgery symptoms that include, but are not limited to, pain in his right leg, difficulty walking and permanent scarring.
32. Defendant's collective failure to provide adequate medical care to Plaintiff when he first complained of leg pain in January 2016, caused Plaintiff's symptoms to worsen, become irreversible and required Plaintiff to undergo painful medical procedures.
33. Had Defendants timely treated Plaintiff's symptoms and had him seen by a qualified physician, he would not have had to undergo any medical procedures on his right leg.

**COUNT I**  
**8<sup>th</sup> AMENDMENT DENIAL OF MEDICAL CARE AGAINST DEFENDANT  
JOHN DOE NURSES**

34. Plaintiff incorporates by reference paragraphs 1 through 33 of this Complaint as though same were fully set forth at length herein.
35. The failure of Defendant John Doe Nurses to provide medical care to Plaintiff constitutes deliberate indifference to the Plaintiff's serious medical needs in violation of the Eighth Amendment's prohibition against cruel and unusual punishments.

**COUNT II**  
**8<sup>TH</sup> AMENDMENT DENIAL OF MEDICAL CARE AGAINST DEFENDANT  
JONH DOE DOCTORS**

36. Plaintiff incorporates by reference paragraphs 1 through 35 of this Complaint as though same were fully set forth at length herein.



37. The failure of Defendant, John Doe Doctors, to provide medical care to Plaintiff constitutes deliberate indifference to the Plaintiff's serious medical needs in violation of the Eighth Amendment's prohibition of cruel and unusual punishments.

**COUNT III**  
**8<sup>TH</sup> AMENDMENT DENIAL OF MEDICAL CARE AGAINST DEFENDANT  
CORIZON HEALTH, INC., T/A PRISON HEALTHCARE SERVICES, INC.**

38. Plaintiff incorporates by reference paragraphs 1 through 37 of this Complaint as though same were fully set forth at length herein.
39. The failure of Defendant, Corizon Health, Inc., T/A Prison Health Services, Inc., to provide medical care to Plaintiff constitutes deliberate indifference to the Plaintiff's serious medical needs in violation of the Eighth Amendment's prohibition of cruel and unusual punishments.

**COUNT IV**  
**8<sup>TH</sup> AMENDMENT DENIAL OF MEDICAL CARE AGAINST DEFENDANT  
CITY OF PHILADELPHIA**

40. Plaintiff incorporates by reference paragraphs 1 through 39 of this Complaint as though same were fully set forth at length herein.
41. The failure of Defendant, City of Philadelphia, to provide medical care to Plaintiff constitutes deliberate indifference to the Plaintiff's serious medical needs in violation of the Eighth Amendment's prohibition of cruel and unusual punishments.

**COUNT V**  
**MEDICAL NEGLIGENCE CLAIM AGAINST DEFENDANTS JOHN DOE  
NURSES**

42. Plaintiff incorporates by reference paragraphs 1 through 41 of this Complaint as though same were fully set forth at length herein.

43. Defendants, John Doe Nurses, through their actions as described above, were negligent in treating Plaintiff's medical needs.

**COUNT VI**  
**MEDICAL NEGLIGENCE CLAIM AGAINST DEFENDANTS JOHN DOE DOCTORS**

44. Plaintiff incorporates by reference paragraphs 1 through 43 of this Complaint as though same were fully set forth at length herein.

45. Defendants, John Doe Doctors, through their actions as described above, were negligent in treating Plaintiff's medical needs.

**JURY DEMAND**

Plaintiff demands trial by a jury of 12.

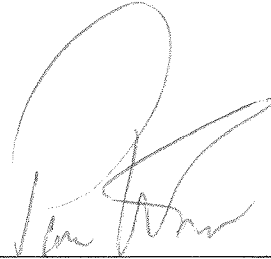
**WHEREFORE**, Plaintiff demands judgment against the Defendants and each of them, jointly and severally, as follows:

- a. Compensatory damages in an amount this Court shall consider to be just, reasonable and fair;
- b. Damages for pain and suffering;
- c. Punitive damages in an amount the Court shall consider to be just, reasonable and fair;
- d. Attorney fees and the costs of this action; and
- e. Such other relief as this Court shall consider to be fair and equitable.

Respectfully submitted,

Date: \_\_\_\_\_

1/10/18

A handwritten signature in black ink, appearing to read 'Pierre Latour', written over a horizontal line.

PIERRE LATOUR, ESQUIRE  
Attorney for Plaintiff  
1515 Market Street, Suite 1210  
Philadelphia, PA 19102  
(215) 732-0460